

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 286 of 2018

With

IA No. CRAN 1 of 2018 (CRAN 1263 of 2018)

Ashish Bhattacharya & Ors.

Vs.

The State of West Bengal & Anr.

With

CRR 1548 of 2018

Amitava Chatterjee & Ors.

Vs.

The State of West Bengal & Anr.

Mr. Amajit De, Adv.

Ms. Shakshi Rathi, Adv.

Mr. Pradipta Nath, Adv.

...For the Petitioner CRR 286 of 2018

Mr. Ashis Kumar Chowdhury, Adv.

Mr. Rajib Ghosh, Adv.

Mr. Babhru Bahan Bera, Adv.

Mr. Avishek Chatterjee

...For the petitioner CRR 1548 of 2018

Mr. Binay Kumar Panda, Adv.

Mr. Subham Bhakat, Adv.

...For the State in both CRR 286 of 2018 &
CRR 1548 of 2018

Mr. Uday Sankar Chattopadhyay, Adv.

Mr. Rajashree Tah, Adv.

Mr. Trisha Rakshit, Adv.

...For the opposite party no.2/de facto
complainant in both CRR 286 of 2018 &
CRR 1548 of 2018

Heard on :19.07.2023,18.08.2023
13.09.2023, 05.10.2023,
08.12.2023, 24.01.2024,
27.02.2024

Judgment on : 19th March, 2024

Bibhas Ranjan De, J.

1. Both the revision applications assailing the same FIR registered as Burdwan Women Police Station Case No. 219 dated 27.07.2016 are taken up for decision by this common judgment.
2. These revision applications have referred to the proceeding in connection with Burdwan Women Police Station Case No. 219 dated 27.07.2016 corresponding to G.R. Case no. 2644 of 2016 under Section 498A/323/327/504/507/354B of the Indian Penal Code (for short IPC) read with Section 3 /4 of the Dowry Prohibition Act (for DP Act), with a prayer for quashing of the same.

Background:-

3. One application under Section 156(3) of Code of Criminal Procedure (for short CRPC) was filed before the Court of Ld. Chief Judicial Magistrate, Burdwan, alleging inter alia that the opposite party no. 2 herein got married to the petitioner namely Amitava Chatterjee and immediately after marriage, started residing in her matrimonial home at Vishakhapatnam. But, soon after, the opposite party no. 2 herein was subjected to cruelty at the instance of all the petitioners on various

occasions on demand of more dowry including cash. Ultimately, she could not bear with the torture caused upon her and left her matrimonial home and took shelter in her father's house on 03.03.2016.

4. On receipt of the complaint from the Court of Ld. CJM, Burdwan specific case under Sections 498A /32/307/504/506/354B of IPC read with Section 3 /4 of the DP Act was started by Burdwan Women Police Station dated 27.07.2016. After investigation charge sheet was submitted under Sections 498A/32/307/504/506/354B of IPC read with Section 3 /4 of the DP Act and case was registered as Burdwan Women Police Station case no. 219/16 dated 27.07.2016.
5. In **CRR 286 of 2018** petitioners are all relatives of the petitioner (husband) of **CRR 1548 of 2018**.
6. The petitioner of CRR 1548 of 2018 challenged the proceeding in connection with Burdwan Women Police Station Case no. 219 of 2016 under Sections 498A/307/323/ 504/506/ 354B of the IPC read with read with Section 3 /4 of the DP Act currently pending before the Ld. CJM, Burdwan on the ground of non-disclosure of any specific offence against the petitioner and also to wreak vengeance.

7. The petitioners of CRR 286 of 2018 also assailed the same complaint registered as Burdwan Women Police Station Case no. 219 of 2016 on the issue that the entire incident/cause of action arose at Vishakhapatnam, so the aid of Sections 177/179/181(4) of the Cr.P.C. cannot be invoked for the exercise of jurisdiction by Ld. CJM, Burdwan for the purpose of investigation and trial.

Argument advanced:-

8. Both the Ld. Counsels, namely Mr. Amajit De and Ashis Kumar Chowdhury appearing on behalf of the petitioners in both the revisional applications have advanced an argument on two scores:-

- To begin with, the instant case is not maintainable on the ground of wrong jurisdiction in terms of Section 177/179/181 (4) of Cr.P.C. It is submitted that entire incident alleged to have been committed, arose at Vishakhapatnam within the jurisdiction of Manorama A.C Police Station whereas, this case was registered at Burdwan Women Police station.
- In addition to that it is submitted that the written complaint lacks any specific allegation against any of the petitioners

and thereby a try was made to impress this Court that no credible offence has been disclosed in the written complaint.

9. In support of their contention, the Ld. Counsels have relied on a couple of cases namely ***Mirza Iqbal alias Golu and another vs. State of Uttar Pradesh and another*** reported in ***2021 SCC OnLine SC 1251 & Geeta Mehrotra and another State of Uttar Pradesh and another*** reported in ***(2012) 10 Supreme Court Cases 741***.

10. In opposition to that, Ld. Counsel, Mr. Uday Sankar Chattopadhyay appearing on behalf of the opposite party no.2/defacto complainant in connection with both the revision applications has submitted that the written complaint discloses specific role played by all the petitioners in connection with revision applications. Mr. Chattopadhyay further submitted that the submission made on behalf of the petitioners has no leg to stand in terms of nature of the offence alleged in this case.

11. On behalf of the State, Ld. Counsel, Mr. Binay Kumar Panda relied on the evidences collected during investigation in support of the complaint under Section 156(3) of CrPC.

Analysis:-

- 12.** In the referred cases (supra) Hon'ble Apex Court has reiterated that except vague and bald allegations against the appellants, if there are no specific allegations disclosing the involvement of the appellants to prosecute them for the offences alleged then it will be a fit case to exercise jurisdiction under Section 482 of Cr.P.C.
- 13.** After giving a thoughtful consideration of entire complaint along with the evidence collected during investigation of this case, I am unable to agree with the Mr. De and Mr. Chowdhury that there are no specific allegations in the written complaint which would lead to a presumption that the aforesaid complaint was initiated with malafide intentions only to wreak vengeance against the petitioners.
- 14.** Now, I propose to come to the issue of jurisdiction raised by the petitioners in respect with CRR 286 of 2018.
- 15.** Section 177 of the CrPC deals with ordinary place of inquiry and trial in terms of the offence alleged to have been committed. But the offence alleged in this case comes within the meaning of Section 498A of the IPC for subjecting the opposite party no. 2 to cruelty. Other offences alleged in this case cannot be isolated without Section 498A IPC which is a continuing offence. If a married woman is subjected to torture

and compelled to take shelter in her paternal home, the victim, in my opinion, can lodge complaint in the jurisdiction where she is residing currently. In common parlance married couple is expected to reside together after their marriage. A married woman residing at her father's house that too after being driven out, in my opinion, can only be said to be a residence under compulsion equivalent to mental cruelty being a continuing offence not coming within the purview of offences under Section 177/179/181(4) of CrPC.

- 16.** In this trying situation, it will be profitable to refer the case of ***Rupali Devi Vs. State of Uttar Pradesh and other reported in (2019) 5 Supreme Court Cases 384*** wherein the Hon'ble Apex Court handed down the following ratio in paragraph 16:-

“16. We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498-A of the Penal Code.”

- 17.** Thus, the issues raised in the revision applications are not at all suitable for exercise of inherent jurisdiction under Section 482 of the CrPC.
- 18.** As a sequel, both the revision applications being no. CRR 286 of 2018 & CRR 1548 of 2018 are hereby dismissed and accordingly disposed of by this common judgement.
- 19.** Case diary be returned.
- 20.** Connected applications, if there be any, stand disposed of.
- 21.** Interim order, if there be any, also stands vacated.
- 22.** All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
- 23.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]